IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

RSA No.219 of 2006

Decided on: August 29, 2006

Megh Singh **.....Appellant.**

VERSUS

Chet Ram and others **.....Respondents.**

Coram

The Hon'ble Mr. Justice Surjit Singh, Judge.

Whether approved for reporting?

For the Appellant : **Mr. Lakshay Thakur, Advocate.**

For the respondents : **Mr. Surinder Verma, Advocate, for respondents No.1 and 2.**

None for respondent No.3.

Surjit Singh, Judge (Oral)

Heard and gone through the record.

2. Late Smt. Pritamu (now represented by respondents No.1 and 2, being her sons) filed a suit for declaration that her son, named Nand Lal, who had died sometime in or prior to the year 1975, was unmarried and that mutation of his estate in favour of proforma-respondent No.3 Smt. Chuhri, on the basis of her claim that she was his widow, was wrong and had no effect or consequence upon her right and that in fact she had inherited the estate of her son Nand Lal. The present appellant was impleaded as defendant after the institution of the suit, because during the pendency of the suit Chuhri, proforma-respondent, who was initially impleaded as sole defendant, transferred the property in favour of the appellant.

Whether the reporters of the local papers may be allowed to see the judgment?

3. Chuhri contested the claim. She denied that Pritamu was the mother of Nand Lal. She also denied the allegation made in the plaint that she was not the widow of Nand Lal. She also raised the plea that the suit was barred by time, inasmuch as the mutation was attested in the year 1975 whereas the suit was filed in 1994.

4. Trial Court framed various issues on the pleadings of the parties and recorded the evidence adduced by the parties and finally concluded that Chuhri, proforma-respondent, was not the wife of Nand Lal and Pritamu was the mother of said Nand Lal and so she had inherited Nand Lal's estate to the exclusion of Chuhri and all others. The plea of limitation also did not find favour with the trial Court. It was observed that mutation does not create any title and hence the limitation cannot be counted from the date of its attestation. The present appellant, who stepped into the shoes of Chuhri, on account of sale having been made in his favour by Chuhri, during the pendency of the suit, unsuccessfully challenged the finding and the decree of the trial Court in the Court of District Judge.

5. The main point that has been urged before me is that the suit was barred by time, because the mutation attested in the year 1975 had been challenged in 1994. I find no merit in the plea, because a bare look at the mutation order shows that the said order was passed behind the back of Pritamu and, therefore, the order did not bind her.

6. Next submission made by the learned counsel for the appellant is that there is a pedigree table on the record, copy Ex.P-4, which shows that Chuhri was the widow of Nand Lal. The pedigree table on the face of it is incorrect, because besides showing Chuhri

as the wife, two persons, namely Kirtu and Mani Ram, are shown to be the sons of Nandu. Admittedly, Nandu did not have any son. Thus, the pedigree table, on the face of it, is incorrect.

7. No other point has been urged.

8. No substantial question of law arises. Hence, the appeal is dismissed.

August 29, 2006(sd) **(Surjit Singh), J.**